

1 April 1987

OCA 87-1228

MEMORANDUM FOR THE RECORD

FROM: [redacted] Legislation Division
Office of Congressional Affairs

STAT

SUBJECT: National Drug Policy Board Views Letter on S. 15, "Drug Czar"

1. During the week of March 23, 1987, I called the Assistant NIO/N in the absence of the NIO/N himself. I indicated that I had reviewed the proposed views letter on S. 15 from the Attorney General to Senator Glenn, Chairman of the Senate Governmental Affairs Committee and had no objection to it. That letter had been forwarded to the Agency for comment by the National Drug Enforcement Policy Board prior to transmission to Senator Glenn.

2. Subsequently I was called by the NIO/N himself. He indicated that he had contacted the Board and had indicated no Agency objection to the letter (other than the deletion of one minor sentence).

3. He then noted that S. 15 in its current form might present problems for the Agency and suggested that we might consider seeking an amendment of the bill to include language proposed by [redacted] of the Office of General Counsel in a memorandum on the bill he did recently.

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4. I indicated that I had not seen the memorandum. I had reviewed the bill, however, when it was introduced. While the concept of the "drug czar" was not favored by the Agency, I had concluded that there was language in the bill sufficient to protect the Agency's equities: budgetary independence and ability to protect intelligence sources and methods. I indicated we would review the matter at the time the bill appeared to be moving.

5. The language in question was the result of intense negotiations with the bill's proponents at the bill's inception several years ago. It is not likely that they will wish to reopen the matter at this time. To the contrary, by reopening the issue it is possible the Agency exemption could be lost. Further, we would have to be satisfied that the proposed substitute addressed a real problem heretofore unnoticed, not just a rephrasing of the existing language. I will, however, obtain a copy of the [redacted] memorandum and review it.

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OCA/LEG/ [redacted] (1 Apr 87)

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SUSPENSE Noon (27 Mar '87)
Date

Remarks

To #9/17: Pls respond directly to Mr. Coy with
information copy for Executive Secretary.

Executive Secretary
26 Mar '87

Date

STAT

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U.S. Department of Justice

87-1245X

National Drug Enforcement Policy Board

Attorney General, Chairman

March 25, 1987

The Honorable Robert M. Gates
Acting Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Gates:

The Chairman of the National Drug Policy Board has asked me to send you the draft of a letter to Senator John Glenn in response to his request for the Administration's views regarding S. 15, "Drug Czar Bill". The Chairman would like to respond to Senator Glenn's request by sending one letter that represents the views of the National Drug Policy Board.

He asks that you please review the attached letter and provide any comments to me no later than cob Friday, March 27, 1987.

Sincerely,

A handwritten signature in cursive script, reading "Craig P. Coy".

Craig P. Coy
Assistant to the Chairman of
the National Drug Policy Board



National Drug Enforcement Policy Board

Attorney General, Chairman

DRAFT

Honorable John Glenn
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for views of the Administration regarding S. 15, a bill "To provide the framework necessary to pursue a coordinated and effective national and international narcotics control policy". For the reasons set out below, the departments and agencies represented on the National Drug Enforcement Policy Board strongly recommend against enactment of this bill.

Background

This proposal, generally referred to as the "drug czar bill," has a history which merits review. The forerunner of S. 15 was, without hearings, included in H.R. 3963 of the 97th Congress and was disapproved by the President on January 14, 1983. The Memorandum of Disapproval sets out the Administration's concerns with such legislation and is enclosed for ready reference.

The same proposal was resubmitted during the 98th Congress. In early 1984, then Deputy Attorney General Jensen approached Senators Biden and Thurmond in an effort to develop a compromise on the "drug czar" issue. That compromise effort resulted in the enactment, as Title XIII of the Comprehensive Crime Control Act of 1984 (P.L. 98-473), of the statute which created the National Drug Enforcement Policy Board. This new Cabinet-level Board, which I chair and which was organized in early 1985, was assigned the mission of coordinating federal drug enforcement policy, strategy and operations.

Since its creation less than two years ago, the National Drug Enforcement Policy Board has taken on a number of drug enforcement coordination issues. Its accomplishments and activities are described in some detail in the two enclosed reports which it has issued.

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The President has decided that the Board should be expanded to coordinate both supply side and demand side programs. On February 3, 1987 I announced that the President will soon issue an Executive Order to establish the National Drug Policy Board which will

" facilitate the development and coordination of national drug policy and shall coordinate Executive Branch activities to reduce the supply and use of illegal drugs, to include international activities, enforcement, prevention and education, treatment and rehabilitation, and research related to illegal drugs."

A copy of the announcement of this centralization is enclosed.

In short, by virtue of enactment of the compromise National Narcotics Act in 1984 and the expansion of the National Drug Enforcement Policy Board into a National Drug Policy Board which will address all drug issues, we have substantially embraced and put into place the coordination structure recommended in S. 15.

Concerns Raised by S. 15

The principal difference between S. 15 and the present structure is that S. 15 proposes to create a super Cabinet level officer, the "Director of National Drug Control Policy" (the "drug czar") with authority to direct the affairs of the various departments and agencies of the United States. While we recognize the superficial appeal of this proposal, we believe that it is ill advised and that it is inconsistent with two centuries of Cabinet government which has served this nation well. While it is certainly true that there are a number of agencies and departments with drug control responsibilities, the same is true of many issues: social welfare, law enforcement, economic policy and so forth. Ultimately, it is the President who must, in our system, resolve disagreements which arise among the various departments and agencies in areas which cut across departmental lines. If S. 15 is followed to its logical extreme, super-Cabinet level officers would be established in all such areas, perhaps to organize themselves into a "Super Cabinet." As the President's Commission on Organized Crime noted after studying the "drug czar" proposal:

"It is neither possible nor desirable under our system of law to invest a Board Chairman or any other "Czar" with dictatorial power to command other Cabinet members to conduct the affairs of their respective Departments in a particular fashion."

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The additional layer of bureaucracy inherent in such a system would, we believe, retard rather than enhance drug control efforts. The bill calls for the creation of a new office which would be expensive to maintain and would require significant staff and other resources which would inevitably be drawn from current drug control programs. The creation of such a super-Cabinet-level office would also diminish the responsibility of and thus the interest and commitment of Cabinet members and agency heads to solving the complex drug problem. There is no precedent for such a scheme in any comparable subject matter area.

S. 15, by giving the "drug czar" the authority to "direct and coordinate all United States Government [enforcement] efforts," jeopardizes the integrity of ongoing criminal investigations and prosecutions. It also threatens the autonomy of the Departments of Justice, Treasury, Transportation and State, a threat underscored by the overwhelming opposition to this proposal by the federal law enforcement community as well as such groups as the International Association of Chiefs of Police and the National Association of Attorneys General.

In summary, we support the thrust of S. 15 and have sought to achieve its ends within the traditional framework of government. We object vigorously, however, to the proposal in S. 15 that the solution to our drug problems lies in the creation of a super-Cabinet level officer to serve as a "drug czar," presumably to work out of the Executive Office of the President. Recent history does not suggest that pushing aside Cabinet departments in favor of White House-directed operations is the most efficacious means of advancing the interests of the United States.

Conclusion

For the reasons set out above, the Departments and agencies represented on the National Drug Enforcement Policy Board strongly recommend against enactment of S. 15. Should the bill be approved notwithstanding our objections, we would be constrained to recommend Executive disapproval of the bill.

Sincerely,

Edwin Meese III
Chairman

Enclosures